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September 20, 2012

VIA ECF

Honorable William J. Martini, U.S.D.J.
United States District Court
M.L. King Jr. Federal Bldg. & Cthse, Room 4076
50 Walnut Street
Newark, New Jersey 07102

Honorable Mark Falk, U.S.M.J.
United States District Court
Frank R. Lautenberg U.S. P.O. & Cthse, Room 457
1 Federal Square
Newark, New Jersey 07102

Re: *Lydia Fabend, et al., v. L'Oreal USA, Inc., et al.*
Civil Action No. 12-03571(WJM) (MF)

Dear Judge Martini and Judge Falk:

We are co-counsel for plaintiffs Lydia Fabend, Rosemarie Murphy, and Kimberly Davis (collectively "Plaintiffs") and the putative Class in the above-referenced action. Please accept this letter in response to Defendants' letter of September 19, 2012 to Your Honors regarding the application for appointment of Carella, Byrne, Cecchi, Olstein, Brody & Agnello ("Carella Byrne") as interim lead class counsel pursuant to Rule 23(g).

Rule 23(g)(3) authorizes the Court to appoint interim counsel prior to the certification of the class. Defendants do not challenge the qualifications of the Carella Byrne firm for such appointment, nor could they.

Rather, Defendants opine that it is unnecessary to appoint interim class counsel at this juncture simply because no other attorney or firm is vying for leadership of the matter. Defendants' "opinion" is short-sighted. Appointing the

September 20, 2012

Page 2

undersigned as interim counsel will protect the interests of the putative Class moving forward, promote efficiency, and create an orderly counsel structure. Indeed, for the Court's benefit alone, our appointment as interim counsel provides the Court with a formal point of contact with authority to make decisions on behalf of the putative Class.

Moreover, the Notes recognize that pre-certification work on behalf of the putative Class frequently includes motion practice, discovery, and potential settlement discussions, and thus, necessarily, communication with clients. Here, a formal designation as interim counsel also benefits Plaintiffs and the putative Class because it eliminates uncertainty and provides for clear leadership in handling this critical pre-certification work.

Finally, contrary to Defendants' characterization that appointing interim counsel is an "extraordinary procedure," courts in this District routinely appoint interim lead class counsel. In fact, Carella Byrne has been appointed interim lead or co-lead class counsel at the outset of a number of matters filed in this District. The following list provides a representative sample of recent cases filed in this District in which similar Orders have been entered.

- *Avram v. Samsung Electronics, et al.* Civil Action No. 11-6973(SRC)(MAS) Complaint filed on November 30, 2011 and interim class counsel Order entered on January 3, 2012.
- *Dzielak v. Whirlpool Corporation, et al.* Civil Action No. 12-0089 (SRC)(MAS) Complaint filed on January 5, 2012 and interim class counsel Order entered on February 21, 2012.
- *Loreto v. Coast Cutlery* Civil Action No. 11-3977(SDW)(MCA) Complaint filed on July 11, 2011 and interim class counsel Order entered on September 8, 2011.
- *Lynch v. Tropicana Products, Inc.* Civil Action No. 11-07382 (DMC)(JAD) Complaint filed on December 19, 2011 and interim class counsel Order entered on February 14, 2012.
- *Rossi v. The Procter & Gamble Co.* Civil Action No. 11-7238(JLL)(MAH) Complaint filed on December 13, 2011 and interim class counsel Order entered on January 31, 2012.

Accordingly, for the reasons expressed above and for the benefit of the Plaintiffs and putative Class, as well as the Court, we respectfully ask that Carella Byrne be appointed interim lead class counsel.

September 20, 2012

Page 3

Thank you for your attention to this matter. Of course, if the Court has any questions, we are available to discuss them either in person or by telephone conference.

Respectfully submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

/s/ James E. Cecchi

JAMES E. CECCHI

cc: All Counsel of Record